

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION**

MELINDA ABBT,
Plaintiff,

v.

**CITY OF HOUSTON, TEXAS AND
JOHN CHRIS BARRIENTES,**
Defendant.

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Civil Action No.: _____

The Honorable Judge _____

DEFENDANT CITY OF HOUSTON's NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Defendant CITY OF HOUSTON, TEXAS files this its Notice of Removal. In support of said notice, Houston would respectfully show the Court as follows:

I. STATE COURT ACTION

1. On or about December 26, 2018, a civil action was commenced in the 165th Judicial District Court of Harris County, Texas, by the filing of a petition bearing the caption MELINDA ABBT, Plaintiff, v. CITY OF HOUSTON, TEXAS, and JOHN CHRIS BARRIENTES, Defendants, Cause No. 2018-90881 ("State Court Action"). *See* a copy of Plaintiff's Original Petition filed in State Court Action attached and marked as Exhibit "B."

2. In the State Court Action, Plaintiff is seeking damages against the City of Houston for alleged violation of her civil rights under Title VII of the Civil Rights Act, as amended, stemming from Defendant J.C. Barrientes' alleged viewing of private images and videos from her personal computer, in the City of Houston, Harris County, Texas. *See* Exhibit "B." Plaintiff also seeks damages for alleged violations of section 98B.002 of the Texas Civil Practice and Remedies Code. *Id.*

II. GROUNDS FOR REMOVAL

3. The district courts of the United States have original jurisdiction over this action on the federal question presented in Plaintiff's Civil Rights Complaint – namely the alleged violations of her civil rights presented under Title VII of the 1964 Civil Rights Act, as amended. *See* Exhibit "A." Original jurisdiction over such matters is conferred upon federal district courts by 28 U.S.C. §1331, which states that "the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States." 28 U.S.C. §1331; *see also* 28 U.S.C. §§1441(a). Therefore, removal of this action is proper.

III. TIMING AND STATE COURT PROCEEDINGS

4. On March 15, 2019, Defendant City of Houston ("City") received the petition in the State Court Action via personal delivery by a private process server. *See* a copy of the Return of Service attached as Exhibit "D."

5. On March 20, 2019, Defendant John Chris Barrientes ("Barrientes") received the petition in the State Court Action via personal delivery by a private process server. *See* a copy of the Return of Service attached as Exhibit "D."

6. This notice of removal is filed within thirty days of receipt of the petition by the City and is timely filed under 28 U.S.C. §1446(b).

7. Defendant Barrientes, by and through his counsel of record, Joseph Soliz, consented to the removal of this case to federal court.

8. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

9. Defendant City of Houston will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

10. Pursuant to Local Rule LR-81, Local Rules for the Southern District of Texas, attached are the following:

- (a) Exhibit “A” – Index of matters being filed
- (b) Exhibit “B” – Pleadings (Plaintiff’s Original Petition, City of Houston Answer and Affirmative Defenses, and Barrientes Answer)
- (c) Exhibit “C” – copy of the current docket sheet in the State Court Action
- (d) Exhibit “D” – all executed process
- (e) Exhibit “E” – list of all counsel of record

WHEREFORE, PREMISES CONSIDERED, Defendant CITY OF HOUSTON pursuant to these statutes and in conformance with the requirements of 28 U.S.C. §1446, removes this action for trial from the 165th Judicial District Court of Harris County, Texas (cause #2018-90881) to the United States District Court for the Southern District of Texas, Houston Division, on this the 12th day of April 2019.

Respectfully submitted,

RONALD C. LEWIS
City Attorney

DONALD J. FLEMING
Chief, Labor, Employment & Civil Rights

/s/ Deidra Norris Sullivan
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**ATTORNEYS FOR DEFENDANT
CITY OF HOUSTON**

CERTIFICATE OF SERVICE

I certify that on 12th of April 2019, I served a copy of the foregoing document on the parties listed below by electronic service and that the electronic transmission was reported as complete.

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